

# CORPORATE UPDATE

FOR CLIENT CIRCULATION ONLY

No. 08/05

15<sup>th</sup> September, 2005

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## INCOME TAX

### I. Annual Information Return (AIR)

CBDT has vide Circular No 7/2005 dated 24<sup>th</sup> Aug 2005, issued guidelines and clarifications for furnishing of Annual Information Return (AIR) under section 285BA of the Income Tax Act, 1961.

Major Highlights of the guidelines are as under:

- a. NSDL has been authorized as the agency to receive AIR on behalf of Commissioner of Income Tax (Central Information Branch).
- b. Folio numbers of AIR filers will be their TAN nos.
- c. Persons filing AIR are required to furnish only one return even if they may have more than one branch.
- D. Aggregate of the transactions under each item of the Table in Rule 114E, is to be reported as one transaction and

the date of the transaction is to be mentioned as the last date of the Financial Year.

### II. Fringe Benefit Tax – Non Levy of interest

The CBDT has on 18.07.2005 ordered that no interest will be charged on the first installment of advance fringe benefit tax if paid on or before 31<sup>st</sup> August, 2005.

### III. Fringe Benefit Tax – Clarificatory Circular

The CBDT has issued circular no. 8/2005 on 29<sup>th</sup> August, 2005 on the 'Explanatory Notes on the Provisions Relating to Fringe Benefit Tax'.

The Explanatory notes as issued, has explained in detail the objective of Fringe Benefit Tax (FBT) scheme as that of 'equity' and 'economic efficiency'. In addition, various provisions of the scheme, as enacted are laid down and explained.

The CBDT has further clarified various issues relating to FBT by way of questions and answers. In total, 107 questions have been touched upon and clarified. Various issues relating to the scope, applicability, non-residents, specific expense related issues have been clarified.

## **SERVICE TAX**

### **I. Power of Adjudication of Central Excise Officer in cases related to Service Tax**

The Government have laid down monetary limits for Central Excise Officers for adjudication of penalty cases under Section 83A of the Finance Act, 1994 ("The Act").

The monetary limits prescribed for adjudication under Section 83A as above have also been extended for purposes of adjudication under Section 73 of the Act, so as to have uniform monetary limits.

In addition, certain related issues under Section 73 of the Act have also been clarified/decided by the Government.

A copy of the Circular No. 80/1/2005-ST dated 10<sup>th</sup> August, 2005 dealing with the above is placed on Page 4 of this issue.

Note:

(1) Section 73 of the Act deals with "Recovery of Service tax not levied or paid or short-levied or erroneously refunded".

(2) Section 83A of the Act deals with "power of Adjudication" of the Central Excise Officer.

### **II. Centralised Registration**

The Government have laid down revised procedure for granting of centralized registration.

A copy of the letter bearing F.No.354/106/2005-TRU dated 8<sup>th</sup> August, 2005, issued by the Govt. of India, Ministry of Finance, Department of Revenue (Tax Research Unit) is printed on page 8.

## DATES TO REMEMBER

1. The next date for deposit of advance tax for the Financial Year 2005-06 (second installment for corporate assesses and first installment for non corporate assesses) is 15<sup>th</sup> September, 2005.
2. The due date for filing TDS & TCS Statements (whether in computer media or in paper format) for the quarter ending 30.09.2005 is 15<sup>th</sup> October, 2005.
3. The due date for deposit of the second installment of advance fringe benefit tax for the quarter ending 30.09.2005 is 15<sup>th</sup> October, 2005.
4. The due date for filing income tax return for Financial Year 2004-05 by all assesses other than those required to file their return by 31<sup>st</sup> July, is 31<sup>st</sup> October, 2005.

Circular No.80/1/2005- ST  
10<sup>th</sup> August, 2005

**F.No 341/31/2005-TRU**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
Tax Research Unit

**Subject: Power of Adjudication of Central Excise Officer in cases related to service tax**

Attention is invited to Board's Circular No. 75/5/2004-ST dated 03.03.2004 which specifies that only Assistant Commissioner or Deputy Commissioner of Central Excise is empowered to issue a demand notice and adjudicate such notice under section 73 of the Finance Act, 1994 (hereinafter referred to as the said Act).

- 2.1 With the objective of enabling expeditious adjudication of service tax cases, section 73 of the said Act was amended vide Finance Act, 2005, whereby the words "Assistant/Deputy Commissioner of Central Excise" were substituted by the words "Central Excise Officer". Section 83A was also inserted in the said Act for the purpose of conferring powers on the Central Excise Officer for adjudging a penalty under the provisions of the said Act or the rules made thereunder. The above provisions came into force with the enactment of Finance Bill, 2005 on 13<sup>th</sup> May, 2005. Board has specified monetary limits for adjudication of cases under section 83A of the said Act vide notification No. 30/2005- Service Tax dated 10<sup>th</sup> August, 2005. The monetary limits are as follows:

Table I

S.No	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under section 83A
(1)	(2)	(3)
(1).	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakhs
(2).	Joint Commissioner of Central Excise	Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs
(3).	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs
(4).	Commissioner of Central Excise	Without limit.

2.2 It has also been decided by the Board to have uniform monetary limits for the purposes of adjudication under section 73 and section 83A of the said Act. The monetary limits for the purpose of adjudication under section 73 are as specified in the Table below:

Table II

S.No	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication
(1)	(2)	(3)
(1).	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakh
(2).	Joint Commissioner of Central Excise	Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs
(3).	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs

(4).	Commissioner of Central Excise	Without limit
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2.3 In addition to the above, the Board has decided that-

(i)	the monetary limits specified in the above Tables for adjudication of service tax cases shall be irrespective of whether or not such cases involve fraud, collusion, willful mis-statement, suppression of facts or contravention of any of the provisions of the said Act or the rules made thereunder with an intent to evade payment of service tax and whether or not extended period has been invoked.
(ii)	those cases where there is no alleged failure to pay or evasion/avoidance of service tax or utilization of CENVAT credit shall be adjudicated by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.
(iii)	Henceforth, a notice to show cause under the provisions of the said Act or the rules made thereunder shall be approved in writing and signed by the Central Excise Officer who is competent to adjudicate the said notice.
(iv)	Where simultaneously different cases involving the same issue are due to be adjudicated in a Commissionerate, all such cases may be adjudicated by the Central Excise Officer competent to decide the case where the service tax or CENVAT credit involved is of the highest amount.
(v)	For cases where the appellate authority remands the case for de-novo adjudication specifically mentioning the authority that has to adjudicate the case, then such authority specified in the said appellate order should adjudicate such cases. Where the appellate authority does not specifically mention the authority who has to adjudicate the case, then it should be decided by the authority who passed the said remanded order. The above specified monetary limits will not be applicable in such cases.
(vi)	All pending notices to show cause shall be disposed of in terms of this Circular. However, in those cases where the personal hearing has been completed, orders will be passed by the adjudicating authority before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

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3. With the issuance of this circular, Circular No. 75/5/2004-ST dated 03.03.2004 is hereby rescinded.
4. Field formations may be suitably informed
5. A suitable trade notice may be issued.
6. Hindi version will follow.

**F.No 341/31/2005-TRU**

**(Arvind Madhavan)**  
**Technical Officer (TRU)**  
**Tel: 011-23092037**  
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**8th August, 2005**

**F.No./ 354/106/2005-TRU**  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax Research Unit)

To,  
The Director General (Service Tax )  
9<sup>th</sup> Floor, Piramal Chambers  
Jijibhoy Lane, Lalbaug,  
Parel  
Mumbai 400012

**Sir,**

**Subject : Service Tax - Centralized Registration of assesseees**

Please refer to your letter F.No. V/DGST/(21)/CR/1/2005 dated 9/6/2005 regarding centralized registration by service providers wherein details to be furnished by persons seeking such centralized registration have been prescribed. Representations have been received by the Board stating that difficulties are being faced by service providers in submitting the information and documents required to be submitted as per the above letter and that this has resulted in delay in granting registration and consequently service tax providers could not deposit the tax on time. They have requested simplification of the process for obtaining centralized registration.

The matter has been examined by the Board. The information called for from the service provider at the time of applying for registration has been reviewed. It is felt that the information to be furnished at the time of registration may be limited to the essential information and during verification more details can be obtained from the service providers. In the light of the above, information to be sought at the time of seeking centralized registration has been revised and the revised list of information to be furnished is enclosed.

The following procedure is laid down for granting of centralized registration:

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1. The service provider seeking centralized registration shall submit the application in ST-1 form , complete in all respects, along with information as per [Annexure A](#), to the jurisdictional Deputy Commissioner / Assistant Commissioner in whose charge, the premises / offices to be centrally registered, falls;
2. The jurisdictional Central Excise / Service Tax Deputy Commissioner/ Assistant Commissioner shall verify the information so furnished in the ST-1 form and record his observation. He should mention specifically about details of information that could not be verified at his end.
3. After verification, AC / DC will forward the ST-1 form along with annexure and his report, to the Director General (Service Tax) through the jurisdictional Commissioner. Commissioner of Central Excise / Service Tax shall forward the said application along with his specific recommendation and comments to the Director General (Service Tax), under intimation to the zonal Chief Commissioner. The process of verification and forwarding of applications should in all cases be completed within 7 days from the date of receipt of application for registration.
4. The DG (Service Tax ) on receipt of such verification report, will examine and grant centralized registration if there is no prima facie objection, subject to verification of the details furnished. The same would be intimated to the jurisdictional Commissioners as well as the Zonal Chief Commissioners. In case of any preliminary objection to consider grant of centralized registration, DG(ST) may intimate the same to the applicant immediately.
5. In case DG (Service Tax) desires to verify any further details provided in ST-1 / [Annexure A](#) before grant of registration, he may address the field formations who will cause such verification and send the report within 7 days of receipt of such communication from DG (Service Tax).
6. DG (Service Tax) may cause verification of any of the details furnished. This issues with the approval of Member (Service Tax).

Yours faithfully

(R.Sekar)

Joint Secretary (TRU)

Enclosure: [Annexure A](#)

Copy to:

- (i) The Chief Commissioners of Central Excise and Service Tax (ALL)
- (ii) The Director Generals (ALL)
- (iii) The Commissioners of Central Excise and Service Tax (ALL)

(iv) The Commissioners of Service Tax (ALL)

**Annexure A**

- (1) Residential address of the proprietor / partners.
- (2) Name & Address of the “Authorized signatory”.
- (3) Address and Telephone Nos. of the premises/office where centralized accounting / billing is being carried out.
- (4) Proof of address of the premises/office sought to be centrally registered.
- (5) PAN / TAN No. of the assessee
- (6) Whether the application is on the basis of Centralized Billing or Centralized Accounting system?
- (7) List of taxable service/services to be rendered.
- (8) List of branches, offices or premises of the assessee along with postal addresses, e-mail addresses and telephone Nos.
- (9) Whether recoveries are effected through credit/debit notes? Yes / No
- (10) Previous year’s audited balance sheet, if any.
- (11) Specify the reasons for seeking single centralized registration instead of seeking seeking registration with jurisdictional Commissioner / Chief Commissioner
  - 1.
  - 2.
  - 3.
  - 4.
  - 5.